

[Filed 8-19-08]

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA ex rel.

THOMAS J. MILLER,

ATTORNEY GENERAL OF IOWA,

99AG25112

Plaintiff,

v.

GALAXY GADGETS AND GIZMOS, LLC,

a Florida corporation dba

Galaxy Member Benefits; and

JOHN E. BARTHOLOMEW, JR.,

in his individual and corporate capacities,

Defendants.

Equity No. CE 59174

CONSENT JUDGMENT

On this 19 day of August, 2008, the Court, having been presented by Assistant Attorney General Steve St. Clair with this Consent Judgment, determines that final judgment should be entered herein, and finds as follows:

1. Plaintiff State of Iowa ex rel. Thomas J. Miller, Iowa Attorney General, has filed a Petition in Equity against the above-named Defendants pursuant to Iowa Code Ch. 552A, the Iowa Buying Club Memberships Act; Iowa Code § 714.16, the Iowa Consumer Fraud Act; and Iowa Code § 714.16A, the Consumer Frauds Against Older Iowans law; asking the Court for restitution as well as injunctive and other relief.

2. The Court has jurisdiction of the parties and subject matter.

3. Defendants deny wrongdoing or liability of any kind, but have voluntarily agreed to entry of this Consent Judgment in order to resolve this dispute with Plaintiff. This Consent Judgment does not constitute an admission or finding of any fact or liability and shall not be admissible for such purpose in any other proceeding or jurisdiction. Without limiting the

foregoing, Defendants' approval of the injunctive provisions herein shall not be interpreted as any form of admission or acknowledgment that Defendants have engaged in any of the enjoined conduct. Defendants freely enter into this Consent Judgment for settlement purposes only to resolve all consumer protection claims the Plaintiff may have as of the date of this Consent Judgment with regard to the Defendants' activities in the State of Iowa as described in the Petition, without adjudication of any issues of law or fact.

4. The Court finds that this Consent Judgment should be entered.

For purposes of this Consent Judgment:

"Attorney General" refers to the Attorney General of Iowa.

"Defendants" refers to both Galaxy Gadgets and Gizmos, LLC and to John E.

Bartholomew, Jr.

"Marketing," including other forms of the word, includes advertising, promoting, buying, transferring, offering for rental or sale, renting, selling, upselling, and/or other commercial use.

IT IS THEREFORE ORDERED pursuant to Iowa R. Civ. P. 1.1501 *et seq.* and Iowa Code § 714.16(7) that Defendants Galaxy Gadgets and Gizmos, LLC and John E. Bartholomew, Jr., and, as applicable, each defendant's principals, employees, agents, servants, representatives, subsidiaries, affiliates, successors, assigns, parent or controlling entities, and all other persons, corporations and other entities acting in concert or participating with a defendant who have actual or constructive notice of the Court's injunction, are enjoined from violating the Iowa Buying Club Memberships Act, Iowa Code Ch. 552A; the Iowa Consumer Fraud Act, Iowa Code § 714.16; and/or the Consumer Frauds Against Older Iowans law, Iowa Code § 714.16A; and are further enjoined from engaging, whether individually or in combination, directly or indirectly, in the acts and practices set forth in the lettered subparagraphs below:

A. The solicitation via mail, telephone, or the Internet of Iowans to become members in a buying club within the meaning of Iowa Code § 552A.1(1), without providing the written notices, disclosures, and other safeguards required by Iowa Code § 552A.3.

B. Making any unauthorized withdrawal from the bank account of an Iowa resident, or any unauthorized charges to an Iowa resident's credit card.

C. Marketing the name or personal information of any Iowa resident whom Defendant knows or should know responded to any communication that would have violated an injunctive term of this Consent Judgment, had this Consent Judgment then been in effect.

D. Authorizing any other entity to upsell or otherwise market memberships or other merchandise on behalf of Defendants to Iowans under circumstances in which Defendants or either of them would receive any revenue or anything else of value in connection with such marketing, without first taking reasonable steps to ensure that such entity will not violate this injunction or Iowa law in connection with such marketing. "Reasonable steps" for these purposes require, at minimum, obtaining from each such entity and each such principal in advance of any such upselling or other marketing a signed and dated acknowledgment that it has received a full copy of and reviewed this Consent Judgment.

IT IS FURTHER ORDERED that, in addition to whatever other legal remedies may be available, a violation of this Consent Judgment constitutes a violation of the Iowa Consumer Fraud Act, Iowa Code § 714.16, and each violation by a Defendant of this Consent Judgment, in a Consumer Fraud Act action by the Attorney General that establishes such violation by a preponderance of the evidence, gives rise to a rebuttable presumption that a civil penalty should be imposed in the highest amount provided for by Iowa Code § 714.16 (7), namely \$40,000.00.

IT IS FURTHER ORDERED pursuant to Iowa Code § 714.16(7) that Defendants provide to the Attorney General, upon or before the filing of this Consent Judgment, a list of the names,

last known addresses, and total amounts paid directly or indirectly for a membership by Iowa residents, accompanied by Defendant Bartholomew's sworn statement in writing attesting to the completeness and accuracy of such list.


IT IS FURTHER ORDERED pursuant to Iowa Code § 714.16(7) that Defendants pay to the Attorney General: (i) on or before September 1, 2008, fifty percent (50%) of the total funds required to make full restitution to each person whose name was required to be provided to the Attorney General by the injunctive paragraph immediately above; and (ii) on or before October 1, 2008, the remaining fifty percent (50%) of such funds. Each Defendant is required to ensure that these payments are timely made, and Defendants are jointly and severally responsible for such payments. To the extent that after reasonable efforts the Attorney General is unable to make restitution to one or more consumers, the undistributed restitution may be deposited into the fund described in the next paragraph.

IT IS FURTHER ORDERED pursuant to Iowa Code § 714.16(7), Defendants pay to the Attorney General, on or before November 1, 2008, \$5,000.00 to be deposited into the consumer fraud enforcement fund referred to in Iowa Code § 714.16A. Each Defendant is required to ensure that this payment is timely made, and Defendants are jointly and severally responsible for such payment.

IT IS FURTHER ORDERED pursuant to Iowa Code § 714.16(7) that each Defendant provide reasonable cooperation in connection with the Attorney General's efforts to obtain recovery for consumers who may have suffered losses associated with the upselling or other marketing of memberships, and/or in connection with the practices described in the Petition.

IT IS FURTHER ORDERED that the Court retain jurisdiction for purposes of enforcing this Consent Judgment.

IT IS FURTHER ORDERED that Defendants pay the court costs herein upon the filing of this Consent Judgment.

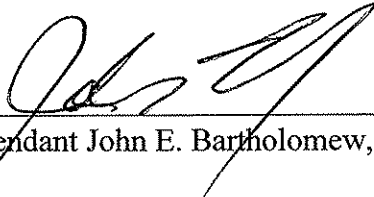

JUDGE, Fifth Judicial District

Approved:

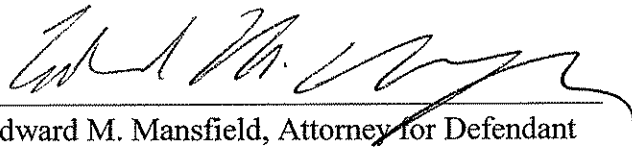
dated: 8-19-08

Defendant Galaxy Gadgets And Gizmos, LLC

dated: 8/15/08


Defendant John E. Bartholomew, Jr.

dated: 8/18/08


Edward M. Mansfield, Attorney for Defendant

dated: 8-19-08

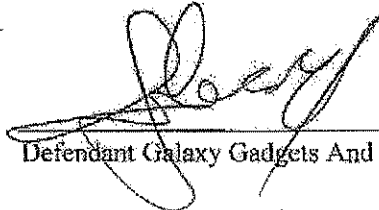

Steve St. Clair, Assistant Attorney General

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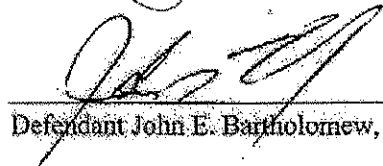
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